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November 28

Mr. William A. Healy, Director
Division of Sanitary Engineering
State Department of Health
Concord, New Hampshire

SEP 22 1998

CONCORD, N.H.

Dear Bill:

You have inquired as to whether the State Board of Health has the authority to condemn individual water supplies serving private homes, and to further require that a public supply be substituted therefor.

RSA 148:13 provides that the local health officer may, with the approval of the State Board of Health, prohibit the use of any well, spring or other water supply. This prohibition must be based on evidence of pollution. As far as requiring a public water supply, it is my opinion that the State Board does not have this power. Under section 22, the Board may investigate the methods pertaining to the source, treatment and distribution of all public water supplies for domestic use, and in this manner each individual supply may be controlled. However, the intention of this section is to regulate and control public water supplies and not a supply used by an individual. If the majority of the private wells are polluted and closed by order of the Board of Health, a public supply becomes a necessity.

Very truly yours,

Arthur E. Bean, Jr.
Assistant Attorney General

AEB, Jr./T